## GIANELLI & ASSOCIATES A Professional Law Corporation 1014 16" Street P.O. Box 2212 Modesto, CA 95353 Telenbrone, (209) 521-5260

## STATE OF CALIFORNIA

## ENERGY RESOURCES CONSERVATION

## AND DEVELOPMENT COMMISSION

CALIFORNIA LIVING & ENERGY (a division of William Lilly & Associates, Inc.) and DUCTTESTERS, INC.,

Docket Number 08-CRI-01

Complainants,

COMPLAINANTS APPLICATION FOR WITNESS SUBPOENAS

VS.

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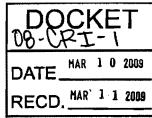
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MASCO CORPORATION and ENERGYSENSE, INC.,

Respondents.



Pursuant to the relevant sections of the California Code of Regulations, Complainants CALIFORNIA LIVING AND ENERGY and DUCTTESTERS, INC. herby respectfully request that the California Energy Commission (hereinafter "the Commission") issue subpoenas for the attendance of the following individuals at the Hearing set for March 17 to March 19, 2009.

## I. COMMISSIONS AUTHORITY TO ISSUE SUBPOENAS

The Commission's power to issue the requested subpoenas is reposed within Title 20, section 1203 of the California Code of Regulations. This section provides that the chairman or presiding member of the Commission may "[I]ssue subpoenas and subpoenas duces tecum at the direction of the Commission, on his motion or upon application of any party."

## II. IDENTIFICATION OF INDIVIDUALS TO WHOM COMPLAINANTS REQUEST THE COMMISSION TO ISSUE WITNESS SUBPOENAS AND THE REASON THEIR ATTENDANCE IS REQUESTED.

Complainants requests that the Commission issue subpoenas to the following persons requiring their attendance at the Hearing currently scheduled for March 17-19, 2009:

 William Pennington - California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814: Mr. Pennington has been actively involved in the investigation into alleged conflicts of interest regarding Masco and other MascoGIANELLI & ASSOCIATES

related entities and can provide important information regarding these investigations previously carried out by the Commission.

William Staack – California Energy Commission, Sacramento, 1516 Ninth Street, Sacramento, CA 95814: Mr. Staack was also involved in the previous investigations carried out into the alleged conflicts of interests regarding Masco

and Energy Sense and can provide information regarding several issues,

including, but not limited to, written communications with David Bell of

- 3. Tav Commins California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814: Mr. Commins, like William Pennington, has been actively involved in the investigation into alleged conflicts of interest regarding Masco and other Masco-related entities for many years and can also provide important information regarding these investigations.
- 4. David Bell; Respondent Energy Sense, Inc.: Mr. Bell occupies a position of authority with Respondent Energy Sense and will have relevant information concerning Energy Sense's structure and operation.
- 5. Doug Beaman, 608 13<sup>th</sup> Street, Modesto, CA 95354. Complainants are informed and believe that Mr. Beamon has been actively involved in any investigations carried out by CHEERS into the alleged conflicts of interest and can provide relevant testimony as to these issues.
- 6. Kirk Dall All Star Home Inspection Services, P.O. Box 1591, Manteca, California, 95356: Mr. Dall is a home inspector performing Title 24 inspection services within the Central San Joaquin Valley and can provide relevant evidence as to both past and present practices of Energy Sense, Inc. and other Masco related entities regarding Title 24 HERS inspections.

Dated: March 10, 2009

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Respondent Energy Sense.

GIANELLI & ASSOCIATES, A Professional Law Corporation

BREIT L. DICKERSON

Attorneys for Complainants

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## PROOF OF SERVICE

## I, NIVES GUTHRIE, declare:

I am a citizen of the United States and a resident of the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within action; my business address is  $1014 - 16^{th}$  Street, Modesto, California 95354.

I am readily familiar with the business practice for collection and processing of correspondence, and on March 10, 2009 I served:

## PETITIONERS APPLICATION FOR WITNESS SUBPOENAS

in the following manner and addressed as set forth below;

<u>xx</u> Via United States Postal Service: Such correspondence was enclosed in a sealed envelope with postage thereon fully prepaid, addressed as stated below. I caused such envelope to be deposited in the U.S. Mail at Modesto, California through the firm's ordinary course of business.

## PLEASE SEE ATTACHMENT

<u>XX</u> **Via Federal Express.** Such correspondence was enclosed in a sealed envelope with delivery charges thereon fully prepaid, addressed as stated below. I caused such envelope to be presented to Federal Express at my business address at or about 3:00 p.m. through the firm's ordinary course of business.

Dockets Unit California Energy Commission 1516 Ninth Street, MS 4 Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and if called could truthfully testify thereto.

Dated: March 10, 2009 at Modesto, California.

VIVES GUTHRIE

GIANELLI & ASSOCIATES

A Professional Law Corporation 1014 16<sup>th</sup> Street/ P.O. Box 3212 Modesto, CA 95353 Talephone: (209) 521-6260 

Dennis L. Beck Senior Staff Counsel California Energy Commission 1516 Ninth Street, MS-14 Sacramento, CA 95814